

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
PHILADELPHIA DIVISION**

JAMES EVERETT SHELTON and JON  
FREY, on behalf of themselves and others  
similarly situated,

Plaintiffs,

v.

DIRECT ENERGY, LP,

Defendant.

Case No. 2:18-cv-4375-CMR

**DECLARATION OF David Atiqi IN SUPPORT OF DEFENDANT'S MOTION TO  
DISMISS**

I, David Atiqi , declare as follows:

1. I am President, for KAA Energy Inc. I submit this Declaration in support of Direct Energy, LP's Motion to Dismiss Plaintiffs' Complaint. The facts contained in this Declaration are based on my personal knowledge and a review of KAA Energy Inc's records, and if called as a witness, I would and could testify to the following facts.

2. In my capacity as President, I am familiar with calls KAA Energy Inc. places on behalf of Direct Energy to potential customers.

3. On or about August 28, 2018, KAA Energy Inc. placed a call to Plaintiff James Everett Shelton. Consistent with its general business practices, KAA Energy Inc. recorded the call with Plaintiff Shelton. The recording was made and kept in the ordinary course of business. A true and correct transcript of the call is attached as Exhibit 1.

4. On or about August 16, 2018, KAA Energy Inc. placed a call to Plaintiff Jon Frey. After the call was dropped, KAA Energy Inc. call Plaintiff Frey again. Consistent with its general

business practices, KAA Energy Inc. recorded both calls with Plaintiff Frey. The recordings were made and kept in the ordinary course of business. A true and correct transcript of the calls is attached as Exhibit 2.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on November 7, 2018, at Katy, TX.

By:   
David Atiqi

# EXHIBIT 1

James Shelton Phone Recording

Page 1

TRANSCRIPTION OF

JAMES SHELTON PHONE RECORDING

James Shelton Phone Recording

Page 2

1                   WES: Electric bills. How are you,  
2 sir?

3                   MR. SHELTON: Yeah. Who's calling?

4                   WES: My name is Wes calling on behalf  
5 of state authorized supplier Direct Energy, and the  
6 call is being recorded for quality assurance. I'm  
7 calling in reference to information about your  
8 electric bill and your ability to receive price  
9 protection now on the cost of your electric.

10                  Do you recall that information?

11                  MR. SHELTON: Yeah. What kind of  
12 information do you need?

13                  WES: Okay. So basically we can lock  
14 you into a fixed rate guaranteed not to go up for 36  
15 months with zero dollar cancellation fee so if you  
16 ever found a better rate, you could take that with no  
17 penalty. All I would need to get your rate is your  
18 utility company, which company you use.

19                  MR. SHELTON: It's the Illuminating  
20 Company. They're part of First Energy. I guess you  
21 know those guys?

22                  WES: Yeah, yeah, yeah. Cleveland  
23 Illuminating?

24                  MR. SHELTON: Correct.

25                  WES: Gotcha. Okay. I'm pulling that

James Shelton Phone Recording

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1 up as we speak. All right. Okay. Pulling up for me  
2 now.

3 So today we would be able to offer you  
4 a fixed rate for 36 months at 6.49 cents per  
5 kilowatt-hour with a zero dollar cancellation fee.

6 MR. SHELTON: That sounds a lot better  
7 than what I currently have.

8 WES: So if you grab a copy of your  
9 bill, we can go everything, and I can get you -- do  
10 you have a gas bill as well, sir?

11 MR. SHELTON: Yes.

12 WES: Yeah. You -- you might as well  
13 grab that, too, and we can see the rate on that  
14 because I might be able -- be able to help you with  
15 both of them.

16 MR. SHELTON: All right.

17 WES: Who is your gas group?

18 MR. SHELTON: It's Dominion Energy.

19 WES: Dominion. Gotcha. Okay.

20 MR. SHELTON: Do you need the account  
21 number or the customer number, which one do you need?

22 WES: I'm going to need the customer  
23 for the Cleveland Illuminating.

24 MR. SHELTON: Okay. You ready for  
25 that?

James Shelton Phone Recording

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1 WES: Yes, sir.

2 MR. SHELTON: Okay. [REDACTED]

3 WES: Uh-huh.

4 MR. SHELTON: [REDACTED]

5 WES: Uh-huh.

6 MR. SHELTON: [REDACTED]

7 WES: Okay. Got it. All right. And

8 the name that's on the bill?

9 MR. SHELTON: It's James E. Shelton,

10 S-H-E-L-T-O-N.

11 WES: James, J-A-M-E-S?

12 MR. SHELTON: Correct.

13 WES: S-H-E-L-T-O-N. Got it.

14 MR. SHELTON: S-H-E-L-T-O-N.

15 WES: S-H-E-L -- right, James Shelton.

16 Got it. Okay.

17 And then do you have your Dominion

18 bill?

19 MR. SHELTON: Yeah. You need me to

20 pull that up?

21 WES: Yeah. We can compare those

22 rates, too. Today -- today with Dominion, we can

23 lock you into a rate for 36 months guaranteed not to

24 go up at \$4.59 per MCF with a zero dollar

25 cancellation fee.

James Shelton Phone Recording

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1 MR. SHELTON: Okay.

2 WES: Does that sound good as well?

3 MR. SHELTON: It does.

4 WES: All right. So for that one --

5 let me just look up Dominion real quick. Hold on one  
6 second. I'm not sure if I need -- oh, yeah, there it  
7 is. I just need the account number on that one.

8 MR. SHELTON: Need the account number?

9 All right. Give me a second. I'm getting it.

10 WES: Sure.

11 MR. SHELTON: I'm sorry. I didn't  
12 grab the name of -- hold on. I'm trying to find this  
13 E-mail here.

14 WES: While -- while you're doing  
15 that, what's your address, service address?

16 MR. SHELTON: [REDACTED]

17 WES: Could you spell it for me?

18 MR. SHELTON: [REDACTED]

19 WES: Gotcha. City?

20 MR. SHELTON: Cleveland, Ohio.

21 WES: It is Cleveland. Okay. The  
22 land. And the zip code? The land. I used to live  
23 in Cuyahoga Falls.

24 MR. SHELTON: Oh, really. Nice.

25 1940 -- that's my old address. 44106.



James Shelton Phone Recording

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1 WES: 44106? Okay. No worries.  
2 44106. Gotcha.

3 And the phone number is (570)374-  
4 correct?

5 MR. SHELTON: I'm sorry, the number  
6 that you have?

7 WES: The phone number -- I'm sorry.  
8 That was -- I'm sorry. That was a whole different  
9 number.

10 The phone number is (484)626-  
11 correct?

12 MR. SHELTON: You got it.

13 WES: Got it. Okay. Cool. Okay.  
14 James Shelton. James.

15 Are these -- are these your only two  
16 active accounts in Ohio, sir?

17 MR. SHELTON: Yes.

18 WES: Okay. I'm just making sure.  
19 I'm going to read through a couple of things just so  
20 we're -- we're dotting our Is and crossing our Ts,  
21 okay?

22 The name that appears on the bill,  
23 James Shelton, service address --

24 MR. SHELTON: James E. Shelton, but,  
25 yeah.

James Shelton Phone Recording

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1 WES: Okay. Service address, [REDACTED]  
2 [REDACTED] Cleveland, Ohio, 44106.

3 Is your service address the same as  
4 your billing address?

5 MR. SHELTON: Yes, sir.

6 WES: Do you have an active E-mail  
7 address, or would you like it mailed to you?

8 MR. SHELTON: No, E-mail is better.  
9 It's [REDACTED]

10 WES: Okay. Hold on. I'm sorry.  
11 Hold on one second. Let me just get there.

12 JE Shelton. Got it.

13 MR. SHELTON: [REDACTED]

14 WES: Right.

15 MR. SHELTON: [REDACTED] at --

16 WES: [REDACTED] at?

17 MR. SHELTON: Gmail.com.

18 WES: Gmail.com. Okay. Perfect.

19 All right. And then you're not on any  
20 government energy assistance program such as CAP or  
21 PIP? Nobody is paying your bills for you, right?

22 MR. SHELTON: No.

23 WES: Okay. All that's left is a  
24 quick verification process where I would remain on  
25 the line. An authorized verifier will ask me to key

## James Shelton Phone Recording

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1 in some information. After that, the verifier will  
2 refer to you to confirm the time, date, that you're  
3 over the age of 18 and authorized to apply your price  
4 protected rates on both the electric and gas --

5 MR. SHELTON: Okay.

6 WES: -- with the selection of Direct  
7 Energy. Please understand anything other than that  
8 throughout the verification process will prevent it  
9 from going forward. They're going to confirm  
10 everything I just did with your address, and they'll  
11 ask you a couple of simple yes or no questions. I'll  
12 go over those with you right now just so there's no  
13 confusion later and there's no -- you know, nothing  
14 hidden from you.

15 First question he's going to ask you  
16 will be to confirm you understand you will continue  
17 to receive one bill, the same bill from both  
18 companies, okay? We're just talking about the  
19 supply --

20 MR. SHELTON: Okay.

21 WES: -- portion, so just -- that  
22 you're going to receive the same bill just like you  
23 always have and in the future, if you have any  
24 questions on the bill, either bill, in the nature of  
25 power going down or a gas leak or anything like that,

James Shelton Phone Recording

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1 you would continue to call the same company and they  
2 will be there for you just like they always have.

3 You understand, correct?

4 MR. SHELTON: I understand, yeah.

5 That makes sense.

6 WES: Okay. It -- it will confirm you  
7 do understand today by selecting Direct Energy, you  
8 will be price protected for your electric at 6.49  
9 cents per kilowatt-hour for 36 months with a zero  
10 dollar cancellation fee and you'll be protected for  
11 your gas at \$4.59 per MCF for 36 months guaranteed  
12 not to go up with a zero dollar cancellation fee as  
13 well, okay? And now prior --

14 MR. SHELTON: Yeah.

15 WES: -- to that 36 months, they're  
16 going to send you in the mail a new offer, so about  
17 45 days or so, about -- you know, within two months,  
18 they're going to send you a new offer. At that time,  
19 you can either choose to accept the new offer,  
20 decline the new offer or not respond. If you don't  
21 respond, you're going to end up on a month-to-month  
22 variable rate, which is never good, so --

23 MR. SHELTON: Right.

24 WES: You do understand that, correct?

25 MR. SHELTON: Yeah, I understand.

James Shelton Phone Recording

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1 WES: Okay. Okay. And then the last  
2 thing --

3 MR. SHELTON: How long do I have --  
4 I'm sorry. Go ahead. I don't want to interrupt you.

5 WES: You will receive a terms of  
6 service packet in the mail within the next three to  
7 five business days reconfirming your selection of  
8 Direct Energy as your energy supplier. You will have  
9 three days to review everything we discussed here  
10 today. If you decide to cancel in the three-day time  
11 period, nothing will be implemented. After the  
12 three-day time period, there's still no opt out fees  
13 applicable, so if you ever -- if you decide to cancel  
14 or find a better rate, we're not charging you for it.  
15 You just take that rate or do whatever you need to  
16 do, okay?

17 MR. SHELTON: So then what's the  
18 purpose of the three days, then? Why --

19 WES: It's a rescission period just --  
20 just in case you decided you didn't want to do it for  
21 whatever reason. It's a rescission period.

22 MR. SHELTON: So is the three days  
23 from today or is it --

24 WES: No, no, after you get it.

25 MR. SHELTON: Okay.

## James Shelton Phone Recording

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1                   WES: You're going -- you're going to  
2 receive it in three to five days. Then you have  
3 three days to look everything over just to make sure  
4 it's just how -- so I'm not promising you a trip  
5 around the world, a Ferrari or anything else that  
6 goes along with it.

7                   MR. SHELTON: Yeah.

8                   WES: And then --

9                   MR. SHELTON: Okay.

10                  WES: -- all I need left is that gas  
11 ID number or your account number and we can -- we can  
12 get the verification. Although I will remain on the  
13 line, I am not out allowed to speak over the  
14 verifier. However, I am able to repeat a question.  
15 If you have any questions, I encourage you to ask  
16 them now. Otherwise, I will remain on the line  
17 throughout the verification and once it's completed,  
18 if you have any questions, jot them down and I can  
19 answer them afterwards. They are not allowed to  
20 answer any questions. They -- they are pretty much  
21 reading from script. They're not -- they're not  
22 going to be able to answer any questions.

23                  MR. SHELTON: Okay.

24                  WES: The third-party verifier is for  
25 your protection.

James Shelton Phone Recording

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1 MR. SHELTON: I understand.

2 WES: Okay. So once we have the gas  
3 account number, we can move forward.

4 MR. SHELTON: I'm ready for that.  
5 You -- you ready?

6 WES: Yeah, I'm -- I'm good.

7 MR. SHELTON: All right. It's

8 

9 WES: Perfect.

10 MR. SHELTON: That's the account  
11 number.

12 WES: Okay. No problem. I'm just  
13 putting that in the information right now, and I'm  
14 going to try to get a verifier on the line for us.

15 MR. SHELTON: Awesome.

16 WES: And we can lock you in, fix  
17 these rates for you. Perfect. Everything went  
18 through great, so I'm just waiting on the verifier.  
19 I'm -- I'm plugging that in.

20 Remember, the first part is going to  
21 be for me. You don't need to push any buttons. I  
22 will let you know when it's your turn, okay?

23 MR. SHELTON: Okay.

24 WES: Okay. All right. Let me get  
25 them on the line for you.

James Shelton Phone Recording

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1 MR. SHELTON: Awesome.

2 (Data Exchange automated system  
3 playing.)

4 VERIFIER: This is LaShaun. Can I  
5 have your vendor ID?

6 WES: 246?

7 VERIFIER: Agent ID?

8 WES: 2094.

9 VERIFIER: 246, 2094 for Wesley.  
10 Transaction (inaudible) ID?

11 WES: I'm sorry. That is going to be  
12 1715034.

13 VERIFIER: 1715034. Your verification  
14 code is 818964618.

15 WES: 618?

16 VERIFIER: Yes.

17 WES: Okay. All right. All right.  
18 Mr. Shelton, remember, (inaudible) answers and I'll  
19 be on the line afterwards, okay?

20 MR. SHELTON: Yeah.

21 WES: All right. Thank you.

22 VERIFIER: Hello. My name is LaShaun  
23 with Data Exchange, and I'm calling on behalf of  
24 Direct Energy to verify your enrollment. Data  
25 Exchange is a third-party verifier and cannot answer



James Shelton Phone Recording

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1 any questions during this process.

2 Do you understand this call is being  
3 recorded and may be monitored for quality assurance  
4 and regulatory purposes?

5 MR. SHELTON: Yes, I understand.

6 VERIFIER: Okay. Please tell me your  
7 first and last name.

8 MR. SHELTON: It's James Shelton,  
9 S-H-E-L-T-O-N.

10 VERIFIER: Thank you.

11 And are you the account holder or the  
12 account holder's spouse?

13 MR. SHELTON: Account holder.

14 VERIFIER: Thank you.

15 And I'll ask a few questions to  
16 confirm the application details with you. Please  
17 respond to the following with a clear yes or a no.

18 Can you confirm that today's date is  
19 August 24th, 2018 and the time is 2:51 p.m.?

20 MR. SHELTON: Yes.

21 VERIFIER: And are you over 18 years  
22 of age?

23 MR. SHELTON: Yes.

24 VERIFIER: And are you currently  
25 participating in a public assistance program or a

James Shelton Phone Recording

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1 fixed income payment plan or PIP?

2 MR. SHELTON: No, I'm not.

3 VERIFIER: And now I just need to  
4 confirm application details.

5 Direct Energy will provide natural gas  
6 service at a fixed state of \$4.59 per MCF for a 36  
7 monthly billing cycle with a cancellation fee of zero  
8 dollars, and this rate excludes applicable sales tax  
9 and utility charges.

10 Do you understand?

11 MR. SHELTON: Yes.

12 VERIFIER: And after the initial term,  
13 your service will automatically renew on a  
14 month-to-month basis at a variable rate as explained  
15 in your agreement. You may also contact Direct  
16 Energy to discuss available renewal options.

17 Do you understand?

18 MR. SHELTON: Yes.

19 VERIFIER: And if you change your  
20 mind, you may call East Ohio Gas customer service at  
21 (800)386-7557.

22 Do you understand?

23 MR. SHELTON: Yes.

24 VERIFIER: And Direct Energy will  
25 provide electric continuation service at a fixed rate

## James Shelton Phone Recording

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1 of 6.49 cents per kilowatt-hour for a 36 monthly  
2 billing cycle with a cancellation fee of zero  
3 dollars, and this rate excludes applicable sales tax  
4 and utility charges.

5 Do you understand?

6 MR. SHELTON: Yes.

7 VERIFIER: And after the initial term,  
8 your service will automatically renew on a  
9 month-to-month basis at a variable rate as explained  
10 in your agreement. You may also contact Direct  
11 Energy to discuss available renewal options.

12 Do you understand?

13 MR. SHELTON: Yes.

14 VERIFIER: And do you understand that  
15 your service will begin upon processing and  
16 acceptance of your enrollment request by your utility  
17 in approximately the next few billing cycles?

18 MR. SHELTON: Yes, I understand.

19 VERIFIER: And do you understand that  
20 Direct Energy is not your electric utility company  
21 and that you may choose to remain with your utility  
22 company or enroll with another electric supplier?

23 MR. SHELTON: Yes, I understand.

24 VERIFIER: And do you understand that  
25 Direct Energy is not your natural gas utility and

James Shelton Phone Recording

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1 that you may choose to remain with your natural gas  
2 company's applicable tariff or default service?

3 MR. SHELTON: Yes.

4 VERIFIER: And do you understand that  
5 you will continue to receive one monthly bill from  
6 your utilities containing the delivery charges, all  
7 applicable taxes and a separate line item showing  
8 Direct Energy's name and price for commodity  
9 supplies?

10 MR. SHELTON: Yes.

11 VERIFIER: And your electric and gas  
12 utility selected billing plan is not available  
13 through the generation portion of your bill when you  
14 enroll with Direct Energy.

15 Now, do you accept the terms of this  
16 offer and agree to become a Direct Energy customer?

17 MR. SHELTON: Yeah.

18 VERIFIER: Okay. And do you  
19 understand that within one business day of your  
20 enrollment, Direct Energy will mail you a written  
21 agreement confirming the terms and conditions  
22 discussed today?

23 MR. SHELTON: Yes, I understand.

24 VERIFIER: And now can you please tell  
25 me your electric customer number?

James Shelton Phone Recording

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1 MR. SHELTON: Let me just pull it up.

2 VERIFIER: Okay.

3 MR. SHELTON: Okay. It's -- you want  
4 the customer number?

5 VERIFIER: Yes, your electric customer  
6 number.

7 MR. SHELTON: Okay.

8 [REDACTED]  
9 VERIFIER: Thank you.

10 And now your gas account number,  
11 please.

12 MR. SHELTON: Okay. [REDACTED] -- I'm sorry,

13 [REDACTED] That's [REDACTED]

14 VERIFIER: Thank you.

15 And can you please tell me your  
16 address including city, state and zip code for gas  
17 and electric?

18 MR. SHELTON: It's [REDACTED]  
19 and that's Cleveland, Ohio, 44106.

20 VERIFIER: Thank you.

21 I show billing and service address as  
22 the same for both, and the name on both bills is  
23 James Shelton?

24 MR. SHELTON: Correct. Yes.

25 VERIFIER: And phonetically, that's

James Shelton Phone Recording

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1 [REDACTED]  
2 [REDACTED] and I have your E-mail address as  
3 [REDACTED]gmail.com?  
4 MR. SHELTON: Yes,  
5 [REDACTED]gmail.com.  
6 VERIFIER: Yes, and phonetically, [REDACTED]  
7 [REDACTED]  
8 [REDACTED]gmail.com.  
9 And your --  
10 MR. SHELTON: [REDACTED]  
11 VERIFIER: -- utility -- yeah,  
12 [REDACTED] yeah.  
13 MR. SHELTON: Correct.  
14 VERIFIER: And your utility will also  
15 be sending you a letter confirming your enrollment  
16 with Direct Energy.  
17 Do you understand that you're allowed  
18 seven business days from the letter's postmark date  
19 to cancel the gas service without penalty point  
20 applying?  
21 MR. SHELTON: Yes.  
22 VERIFIER: And do you understand that  
23 you're allowed seven calendar days from the letter's  
24 postmark date to cancel the electric utility without  
25 penalty point applying?

James Shelton Phone Recording

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1 MR. SHELTON: Yes.

2 VERIFIER: Your verification is  
3 complete. Your verification code is 818964618.

4 MR. SHELTON: Okay.

5 VERIFIER: And thank you, and you have  
6 a good day.

7 MR. SHELTON: You, too.

8 VERIFIER: Thank you.

9 WES: All right, Mr. Shelton, you're  
10 all done. Do you have any more questions for me?

11 MR. SHELTON: You guys going to send  
12 me that E-mail with the terms and conditions?

13 WES: Yeah. So now -- now that they  
14 have that, it should come in your E-mail probably  
15 within the next 24 hours, Monday at the latest only  
16 because it's Friday, I would say, and -- and on top  
17 of that, you might receive one in the mail as well,  
18 but because you gave the E-mail, it should come just  
19 right to your E-mail.

20 MR. SHELTON: Okay.

21 WES: All right.

22 MR. SHELTON: Thank you.

23 WES: All right. You have a great  
24 weekend.

25 MR. SHELTON: You, too. Thanks.

James Shelton Phone Recording

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1 WES: All right. Bye-bye.  
2  
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James Shelton Phone Recording

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1 STATE OF TEXAS

2 COUNTY OF HARRIS

3 REPORTER'S CERTIFICATE

4 TRANSCRIPTION OF JAMES SHELTON PHONE RECORDING

5 I, the undersigned Certified Shorthand Reporter  
6 in and for the State of Texas, certify that the  
7 recorded conversation in the foregoing pages is  
8 transcribed accurately to the best of my ability to  
9 hear and understand the recorded audio.

10 I further certify that I am neither attorney or  
11 counsel for, related to, nor employed by any parties  
12 to the action in which this testimony is taken and,  
13 further, that I am not a relative or employee of any  
14 counsel employed by the parties hereto or financially  
15 interested in the action.

16 SUBSCRIBED AND SWORN TO under my hand and seal  
17 of office on this the day of ,

18 .

19  
20  
21 Vickie G. Hildebrandt, CSR  
22 Texas CSR 1363  
23 Expiration: 12/31/19  
24 STRATOS LEGAL SERVICES, LP  
25 Firm Registration No. 484  
4295 San Felipe, Suite 125  
Houston, Texas 77027  
713.481.2180



# **EXHIBIT 2**

Jon Frey Phone Recording

Page 1

TRANSCRIPTION OF

JON FREY PHONE RECORDING

Jon Frey Phone Recording

Page 2

1 SARAH: Handles the electric bill. Is  
2 that you?

3 MR. FREY: Yes.

4 SARAH: Oh, hi. My name is Sarah, and  
5 I'm calling on behalf of a state authorized supplier,  
6 Direct Energy, and the call is being recorded for  
7 quality assurance, and I'm calling in reference --

8 MR. FREY: Okay. What -- what --  
9 what -- what was your company name?

10 SARAH: It's called Direct Energy.

11 MR. FREY: Oh, Direct Energy. Okay.

12 SARAH: Yeah, and just to let you  
13 know, too, this call is being recorded for quality  
14 assurance, and I'm calling in reference to  
15 information about your electric bill and your ability  
16 to receive a price protection on the cost of your  
17 electricity.

18 Do you recall that information?

19 MR. FREY: I don't, no.

20 SARAH: Yeah. This is really great  
21 because now you have the ability to receive a price  
22 protection on the cost of your electricity and today,  
23 it's my job to explain and apply those for you.

24 MR. FREY: Okay.

25 SARAH: Okay. Great. And if you can

Jon Frey Phone Recording

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1 grab a pen and your utility bill, just some  
2 information so that I can confirm a few details with  
3 you. It will take a few moments of your time, and  
4 I'll get you right back to your day.

5 MR. FREY: Okay.

6 SARAH: Okay. Thank you. Okay. You  
7 got a pen, and just a copy of your electric bill,  
8 too.

9 Now, do you also receive natural gas  
10 in your home as well?

11 MR. FREY: Yes.

12 SARAH: Okay. Great. Go ahead and --  
13 and grab that one, too, for me.

14 MR. FREY: Okay. Can you hang on one  
15 second?

16 SARAH: You bet. Take as long as you  
17 need to.

18 MR. FREY: Okay.

19 SARAH: Okay.

20 MR. FREY: Okay. I have my PICO bill.

21 SARAH: Okay. Great. Yeah. I want  
22 to confirm that with you. PICO, then, for both your  
23 gas and your electric?

24 MR. FREY: Just for electric.

25 SARAH: Oh, just electric. Okay.

Jon Frey Phone Recording

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1 Great.

2 Can you confirm your name as it is on  
3 the bill and your service address?

4 MR. FREY: It's Jon Frey, [REDACTED]  
5 [REDACTED], Philadelphia.

6 SARAH: Okay. Perfect. Okay. Thank  
7 you so much for that, sir. All right. I'll just  
8 update this a little bit.

9 MR. FREY: Okay.

10 SARAH: And what is the zip code you  
11 have there, too?

12 MR. FREY: 19134.

13 SARAH: 19134, and can you spell your  
14 last name for me to make sure this is correct?

15 MR. FREY: F-R-E-Y.

16 SARAH: There's so many different  
17 spellings. I -- I never want to get them wrong.

18 And your first --

19 MR. FREY: Right.

20 SARAH: And your first name?

21 MR. FREY: Jon, J-O-N.

22 Q. (BY SPEAKER) Jon. Okay. Just like that.  
23 Okay. Great.

24 And I have you -- is it [REDACTED]  
25 [REDACTED] Philadelphia, Pennsylvania, 19134?

Jon Frey Phone Recording

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1 MR. FREY: [REDACTED]

2 SARAH: [REDACTED]. Thank you so much for  
3 that. [REDACTED] Okay. Beautiful.

4 All right. And if you want to write  
5 this down, by selecting Direct Energy today, we're  
6 going to be able to price protect you -- let's see.  
7 Let's get back into Pennsylvania here.

8 MR. FREY: Okay.

9 SARAH: Just about got it here. Okay.  
10 Perfect.

11 We're going to be able to protect --  
12 by selecting Direct Energy, we're going to be able to  
13 price protect you at 8.59 cents, and that's per  
14 kilowatt-hour, and that comes with a zero  
15 cancellation fee, and that will be for your  
16 electricity there.

17 MR. FREY: Okay.

18 SARAH: Okay. Perfect. And let's  
19 see.

20 And on your PICO bill, your account  
21 number should be at the top, and it's ten numbers  
22 long. Could you read that off for me?

23 MR. FREY: [REDACTED]

24 SARAH: [REDACTED] Beautiful. Thank you so  
25 much for that, sir. All right. Great. Just about

## Jon Frey Phone Recording

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1 got this.

2 And are you the account holder, sir?

3 MR. FREY: Yes.

4 SARAH: Okay. Perfect. All righty.

5 We go through a state verification process, too. It  
6 takes about one -- one to one and a half minutes to  
7 complete and then that's just for your security, too,  
8 so -- that everything that I'm telling you today,  
9 they just verify, make sure I didn't promise you a  
10 free trip to the Bahamas or anything like that, okay?

11 MR. FREY: Right. Right.

12 SARAH: I'll -- I'll briefly go over  
13 that with you, too, and let you know what kind of  
14 questions they're going to ask, and then we'll get  
15 you right back to your day here. They're just having  
16 me copy and paste a few things here real quick so --  
17 and I've gotten a lot faster than I used to be, so  
18 thanks for your patience here. All right. Okay.

19 And is your billing address and your  
20 service address, are they the same?

21 MR. FREY: Yes.

22 SARAH: Perfect. Beautiful. Just  
23 about got it. It kind of gets loud in here. If it  
24 gets too loud, I'll -- I'll mute my side of the  
25 phone here.



Jon Frey Phone Recording

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1 MR. FREY: Right. Right.

2 SARAH: Okay. Thank you. Okay.

3 So -- and that's Philadelphia, Pennsylvania, 19134?

4 MR. FREY: Yes.

5 SARAH: Okay. Perfect. And they'll  
6 just ask you to verify your address, too, to make  
7 sure it's the -- it's the same, so -- all righty.  
8 And one quick moment here. Okay. Perfect. All  
9 right. Just about got it there. All right. My  
10 computer is on the slow side. It just took my page  
11 away that I was working on here, so bear with me  
12 here. We'll -- we'll get -- we'll get you through  
13 this.

14 MR. FREY: Okay.

15 SARAH: Yeah. Okay. Just about done  
16 with it again. All righty.

17 And is this the best phone number to  
18 reach you at, too, the [REDACTED]

19 MR. FREY: Yes.

20 SARAH: Okay. Great. All righty.  
21 Okay. And they're also, too, Jon, they're going to  
22 be mailing you a packet, too, within three to five  
23 business days. Everything that we've discussed here  
24 today, you will have that in writing, too, and then  
25 in the privacy of your home, you just can go right

## Jon Frey Phone Recording

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1 through the information, and you have a three-day  
2 period of rescission so you can actually rescind --  
3 rescind the offer if you choose to or stay with it.  
4 It gives you the opportunity, too, to -- you know, if  
5 you wanted to search out other places or anything.  
6 You're not tied into anything here. You're just  
7 selecting Direct Energy as your supplier today.

8 MR. FREY: Okay.

9 SARAH: This will get the information  
10 in your hands, too, and, again, with a zero  
11 cancellation fee.

12 Okay. It looks like we are ready to  
13 continue here, so I'll get this going. All right.  
14 All righty. Okay. Double-checking everything here.  
15 All right. We got this. Thank you so much for your  
16 patience. Oh, my goodness. Okay. Here we go, Jon.

17 And, Jon, you're not on any government  
18 energy assistance program such as CAP or PIP,  
19 correct?

20 MR. FREY: Correct.

21 SARAH: Okay. Great. And the  
22 verifier, when I get them on the line, all they have  
23 is a script in front of them so they're not  
24 authorized to answer any questions, but any questions  
25 you have, I'll make sure to answer before I let you

## Jon Frey Phone Recording

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1 go for the day, okay? And they're also going to  
2 confirm if your service address is the same as your  
3 billing, and if you want to add an active E-mail  
4 address, you certainly can. If you don't want to,  
5 Jon, just say no thank you on that, and all that's  
6 left right now is a quick verification process.

7 Jon, I'll remain on the line while the  
8 authorized verifier will ask me to key in some  
9 information, so you don't have to press any numbers.  
10 I'll do that for you and they'll ask me to identify  
11 myself and then they'll ask me a few questions and  
12 after that, I'll let you know when it's your turn and  
13 then get you on the line with the too -- I'll let you  
14 know, too, it's going to be simple yes or no  
15 questions that they'll, you know, ask there and what  
16 they're going to do, too, is they're going to simply  
17 confirm the information exactly as it appears on the  
18 utility bill so do keep that handy, and they will  
19 confirm with you that you understand that Direct  
20 Energy is an energy supplier certified by the State  
21 Commerce Commission and not a utility company.

22 You do understand that, correct?

23 MR. FREY: Yes.

24 SARAH: Okay. Great. And there are a  
25 few simple yes or no questions, and I'm to go over

## Jon Frey Phone Recording

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1 that with you right now.

2                   They will confirm with you that you  
3 understand you'll continue to receive one bill from  
4 PICO just like you always have, Jon, and in the  
5 future, if you have any questions on your bill or  
6 something to a nature of a power line down, PICO will  
7 continue to be there for you just like they always  
8 have.

9                   You do understand that, correct?

10                  MR. FREY: Yes.

11                  SARAH: Great. And they will also  
12 confirm that you do understand today, by selecting  
13 Direct Energy, you'll be charged the 8.59 cents per  
14 kilowatt-hour price protected guaranteed not to go up  
15 in the next 36 months with a zero cancellation fee  
16 and prior to that 36 months, Jon, they're going to  
17 send you -- you're going to receive a notice with a  
18 new offer in the mail and at that point, you have the  
19 choice to accept it or decline it and if you do not  
20 respond at all, you'll just go back onto a variable  
21 month-to-month rate.

22                  You do understand that, correct?

23                  MR. FREY: Yes.

24                  SARAH: Okay. Wonderful. Okay.

25 Great. And they'll also confirm that PICO -- this is

Jon Frey Phone Recording

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1 your only customer account, correct?

2 MR. FREY: Correct.

3 SARAH: Okay. You don't have two  
4 other houses or four other houses?

5 MR. FREY: No, no, no.

6 SARAH: Some people do. That's why we  
7 always ask that question, just to make sure.

8 Okay, Jon. And you're also going to  
9 be receiving a terms of service packet by mail within  
10 the next three to five business days reconfirming  
11 your selection of Direct Energy as your energy  
12 supplier, and in the State of Pennsylvania, you have  
13 a three-day rescission period in which to review  
14 everything we've discussed here today and if you  
15 decide to cancel in that three-day time frame,  
16 nothing will be implemented and even after that  
17 three-day time frame has elapsed, there's still no  
18 opt out fees applicable if you decide to cancel. Of  
19 course, you wouldn't want to cancel rate protection,  
20 correct?

21 MR. FREY: Right. Correct.

22 SARAH: If you find someone who is  
23 less later on, go ahead, cancel it, and, you know, go  
24 with them. I always encourage that, too, and nothing  
25 will be implemented anyway, Jon, for the next 30 to

## Jon Frey Phone Recording

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1 60 days. That's two billing cycles before you see  
2 anything actually change with your bill, and the only  
3 thing that would change is the supplier will be  
4 Direct Energy, but that's -- like I said, that will  
5 be two billing cycles before you see that show up.

6 You do understand that, correct?

7 MR. FREY: Yes.

8 SARAH: Okay. Great. Okay, Jon,  
9 although I'm going to remain on the line, I'm not  
10 allowed to speak over the verification. However, I'm  
11 able to repeat a question, so if you have any  
12 questions right now, Jon, I encourage you to go ahead  
13 and ask them.

14 Can you think of anything?

15 MR. FREY: No.

16 SARAH: Okay. Perfect. Okay. I'm  
17 going to remain on the line. Once the verification  
18 is complete, just make sure, if you think of any  
19 questions, you may want to write them down or just  
20 save them for me at the very end since they're --  
21 like I said earlier, they -- they're not allowed to  
22 answer any questions. It will just be a simple clear  
23 yes or no.

24 Okay. Let's go ahead. Take about a  
25 minute, minute and a half total time here, and we'll

Jon Frey Phone Recording

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1 get you back to your day, Jon.

2 (Data Exchange automated system  
3 playing.)

4 SARAH: And I'll press the buttons.

5 VERIFIER: Good -- good morning.

6 Thank you for calling Data Exchange. My name is  
7 Theresa Boyd.

8 May I have your vendor number?

9 SARAH: Good morning. It's 246.

10 VERIFIER: 246. Thank you.

11 And may I have the agent code?

12 SARAH: 2022.

13 VERIFIER: 2022.

14 Am I speaking to Sarah Moreland?

15 SARAH: Yes, you are.

16 VERIFIER: Thank you, Sarah.

17 And what is the transaction ID, record  
18 ID, please?

19 SARAH: It's 1703605.

20 VERIFIER: 1703605.

21 Your verification code is 818956818.

22 Thank you, Agent. I will continue with the customer.  
23 Have a wonderful day.

24 SARAH: You, too. Thank you so much.

25 Okay, Jon. This is --

## Jon Frey Phone Recording

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1 VERIFIER: Thank you.

2 SARAH: -- your turn, and any  
3 questions, again, Jon, just save for me at the very  
4 end, okay?

5 Thank you so much, Verifier. Go  
6 ahead.

7 VERIFIER: Sure.

8 Good morning, Mr. Frey. This is  
9 Theresa from Data Exchange. Data Exchange is a  
10 third-party verifier and cannot answer any questions  
11 during this process. This call is being recorded and  
12 may be monitored for quality assurance and regulatory  
13 purposes and will only take a few moments to  
14 complete.

15 Please tell me your first and last  
16 name.

17 SARAH: He hung up, Verifier. Let me  
18 try him back.

19 VERIFIER: Okay. No problem, Sarah.  
20 Thank you. Have a great day.

21 SARAH: You too. Thanks.

22 (Phone call continues)

23 MR. FREY: Hello?

24 SARAH: Hi, Jon. I'm so sorry that I  
25 lost you there. This is Sarah, and I'm calling on



## Jon Frey Phone Recording

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1 behalf of the state authorized supplier, Direct  
2 Energy, and the call is being recorded for quality  
3 assurance --

4 MR. FREY: Oh, hey.

5 SARAH: -- calling -- hey, I'm going  
6 to go ahead and get the verifier back on the line.  
7 They were almost done. They only had a few questions  
8 to verify with you just to make sure that, you know,  
9 I did my job. That's the only reason that they're  
10 there, for your security.

11 MR. FREY: Right. Right. Right.

12 SARAH: Yeah. Take about a minute,  
13 minute and a half, but I'm so sorry I lost you there.

14 Okay. Here we go. I'm going to go  
15 ahead and get them back on the line, okay, Jon?

16 MR. FREY: Okay.

17 SARAH: Okay. Thank you so much.

18 (Data Exchange automated system  
19 playing.)

20 VERIFIER: Hello?

21 SARAH: Yes. Hi.

22 VERIFIER: Hi. Good morning. Thank  
23 for calling Data Exchange. This is Shamika Jones.

24 Can I have the vendor number?

25 SARAH: Sure. It's 246.

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1 VERIFIER: 246. Agent code?

2 SARAH: 2022.

3 VERIFIER: 2022 for Sarah Moreland?

4 SARAH: Yes, it is.

5 VERIFIER: And the transaction ID?

6 SARAH: 1703605.

7 VERIFIER: 1703605?

8 SARAH: Yes.

9 VERIFIER: Okay. Your verification  
10 code is 818956820, and thank you. I will continue  
11 with the customer.

12 SARAH: Okay. Thank you.

13 Okay, Jon, this is your turn.

14 Thank you so much, Verifier. Go  
15 ahead.

16 MR. FREY: Okay.

17 VERIFIER: Hello, Mr. Frey?

18 MR. FREY: Yes.

19 VERIFIER: This is Shamika with --  
20 from Data Exchange. Data Exchange is a third-party  
21 verifier. They cannot answer any questions during  
22 this process. This call is being recorded and may be  
23 monitored for quality assurance or regulatory  
24 purposes and will only take a few moments to  
25 complete.

Jon Frey Phone Recording

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1 Please tell me your first and last  
2 name..

3 MR. FREY: Jon Frey.

4 VERIFIER: Thank you.

5 Are you the account holder or the  
6 account holder's spouse?

7 MR. FREY: Yes.

8 VERIFIER: You're the account holder  
9 or the spouse?

10 MR. FREY: Oh, the account holder.

11 VERIFIER: I'm going to ask you a few  
12 questions to confirm the application details with  
13 you. Please respond to the following with a clear  
14 yes or no.

15 Are you --

16 MR. FREY: Okay.

17 VERIFIER: -- over 18 years of age?

18 MR. FREY: Yes.

19 VERIFIER: Are you currently  
20 participating in the customer assistance program CAPS  
21 with the local utility?

22 MR. FREY: No.

23 VERIFIER: Great. Thank you.

24 I just need to review the application  
25 details.

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1 Direct Energy will provide electricity  
2 generation service at a fixed rate of 8.59 cents per  
3 kilowatt-hour for a 36 monthly billing cycle with a  
4 cancellation fee of zero dollars. This rate excludes  
5 applicable sales tax and utility charges.

6 Do you understand?

7 MR. FREY: Yes.

8 VERIFIER: Between 30 and 60 days  
9 prior to the end of your fixed rate term, Direct  
10 Energy will send you a renewal notice. Direct Energy  
11 will send you a notice with a new offer. If you do  
12 not respond to that notice, your contract will  
13 automatically renew at the new rate.

14 Do you understand?

15 MR. FREY: Yes.

16 VERIFIER: Do you accept the terms of  
17 this offer and agree to become a Direct Energy  
18 customer?

19 MR. FREY: Say that again?

20 VERIFIER: Do you accept the terms of  
21 this offer and agree to become a Direct Energy  
22 customer?

23 MR. FREY: Yes.

24 VERIFIER: Okay. We're almost  
25 finished. I just need to read back your account

Jon Frey Phone Recording

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1 information.

2 Your electric account number is

3 [REDACTED]  
4 MR. FREY: Yes.

5 VERIFIER: Is the electric account  
6 service address [REDACTED] Philadelphia, PA,  
7 19134?

8 MR. FREY: Yes.

9 VERIFIER: I show your billing address  
10 to be the same as your service address?

11 MR. FREY: Yes.

12 VERIFIER: The name on the bill for  
13 this address is Jon, that's J like Julie, O like  
14 Oscar, H like Henry, N like Nancy, last name --

15 MR. FREY: Yes.

16 VERIFIER: -- Frey, F like Frank, R  
17 like Robert, E like Everett, Y like yellow?

18 MR. FREY: Yes.

19 VERIFIER: What is your E-mail  
20 address?

21 MR. FREY: [REDACTED]@outlook.com.

22 VERIFIER: Okay. That's [REDACTED]  
23 [REDACTED]

24 at outlook.com?

25 MR. FREY: Correct.

## Jon Frey Phone Recording

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1 VERIFIER: Direct Energy will mail you  
2 a letter and written agreement confirming the terms  
3 and conditions that was discussed with you today.  
4 You are allowed three business days from the receipt  
5 of the agreement to change your mind and stop this  
6 agreement without penalty by contacting Direct Energy  
7 at 1-888-734-0741 or in writing to the address  
8 provided in the disclosure statement and customer  
9 agreement. The utility company will also be sending  
10 you a letter confirming your enrollment with Direct  
11 Energy, and your verification code is [REDACTED] and  
12 that completes the verification.

13 MR. FREY: Okay.

14 VERIFIER: Thank you for enrolling  
15 with Direct Energy. You've made the right choice.  
16 Have a great day.

17 MR. FREY: Thank you.

18 VERIFIER: You're welcome. Bye-bye.

19 MR. FREY: Bye.

20 SARAH: Okay. Jon, this is Sarah  
21 again. Verification is complete. Did you have any  
22 questions for me.

23 MR. FREY: Will I get this  
24 confirmation E-mailed to me?

25 SARAH: You sure will. You're going

## Jon Frey Phone Recording

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1 to be receiving that, Jon, in the next three to five  
2 business days, and again --

3 MR. FREY: By -- by E-mail or regular?

4 SARAH: Oh, yes. Actually, I should  
5 say that, too. Through your E-mail. You're going to  
6 get it through the E-mail and through the mail.

7 MR. FREY: Okay.

8 SARAH: So it looks like you'll be  
9 getting it a lot sooner with your E-mail, you know,  
10 so -- and then they're going to have the toll --  
11 they're going to have a toll free number so if you  
12 have any questions, you know, they'll give you the  
13 hours to post it so feel free to call at any time  
14 with any questions, and did you want your  
15 verification code again, or it will show up in your  
16 paperwork as well.

17 MR. FREY: I'm -- I'm sorry. Say that  
18 again?

19 SARAH: Did you want me to give you  
20 your verification code again, or did you want to wait  
21 for -- go ahead.

22 MR. FREY: I -- I already have it. I  
23 was just wondering if I would get a confirmation  
24 by -- by E-mail.

25 SARAH: You sure will. It will come

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1 by E-mail and it will come by mail.

2 MR. FREY: Okay.

3 SARAH: So you're going to be covered  
4 both ways, and, Jon, thank you for your patience  
5 here, too, with me, and you've been just an absolute  
6 pleasure, and I hope you have a wonderful day, and  
7 thank you for becoming a Direct Energy customer, Jon.

8 MR. FREY: Thank you.

9 SARAH: All right. Take care.

10 MR. FREY: All right. Bye-bye.

11 SARAH: All right. Bye-bye.  
12  
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25



## Jon Frey Phone Recording

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1 STATE OF TEXAS

2 COUNTY OF HARRIS

3 REPORTER'S CERTIFICATE

4 TRANSCRIPTION OF JON FREY PHONE RECORDING

5 I, the undersigned Certified Shorthand Reporter  
6 in and for the State of Texas, certify that the  
7 recorded conversation in the foregoing pages is  
8 transcribed accurately to the best of my ability to  
9 hear and understand the recorded audio.

10 I further certify that I am neither attorney or  
11 counsel for, related to, nor employed by any parties  
12 to the action in which this testimony is taken and,  
13 further, that I am not a relative or employee of any  
14 counsel employed by the parties hereto or financially  
15 interested in the action.

16 SUBSCRIBED AND SWORN TO under my hand and seal  
17 of office on this the day of

18 .

19 



20  
21 Vickie G. Hildebrandt, CSR  
22 Texas CSR 1363  
23 Expiration: 12/31/19  
24 STRATOS LEGAL SERVICES, LP  
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